

## **TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** William W. Ackerman, CPA, Budget & Finance Director/797-1050

**PREPARED BY:** Nabors, Giblin & Nickerson, P.A. Attorney At Laws

**SUBJECT:** Resolution

**AFFECTED DISTRICT:** Town wide

**ITEM REQUEST:** **Schedule for Council Meeting**

**TITLE OF AGENDA ITEM:** ASSESSMENTS - A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, RELATING TO THE PROVISION OF FIRE RESCUE SERVICES, FACILITIES AND PROGRAMS IN THE TOWN; CONFIRMING THE IMPOSITION OF FIRE RESCUE ASSESSMENTS AGAINST PARCELS OF PROPERTY LOCATED WITHIN THE TOWN WHICH WERE OMITTED FROM THE ASSESSMENT ROLL; APPROVING A SUPPLEMENTAL ASSESSMENT ROLL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

**REPORT IN BRIEF:** This resolution would impose the supplemental resolutions for the current fiscal year against the higher education properties; and a proposed bill/public hearing notice that must go out to all higher education properties.

**PREVIOUS ACTIONS:** Town Council previously approved resolution R-2008-144 on July 16, 2008 to establish a preliminary rate resolution for the fire assessment and R-2008-213 on September 15, 2008 Town Council finalized the rate for the fire assessment.

**CONCURRENCES:** Nabors, Giblin & Nickerson, P.A. Attorney at Laws reviewed the documents pertaining to this item.

**FISCAL IMPACT:** not applicable

Has request been budgeted? n/a

**RECOMMENDATION(S):** Motion to approve resolution

**Attachment(s):** Resolution

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**TOWN OF DAVIE, FLORIDA**

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**SUPPLEMENTAL FIRE RESCUE ASSESSMENT RESOLUTION  
FOR FIRE RESCUE SERVICES**

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**ADOPTED JULY 29, 2009**

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RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, RELATING TO THE PROVISION OF FIRE RESCUE SERVICES, FACILITIES AND PROGRAMS IN THE TOWN; CONFIRMING THE IMPOSITION OF FIRE RESCUE ASSESSMENTS AGAINST PARCELS OF PROPERTY LOCATED WITHIN THE TOWN WHICH WERE OMITTED FROM THE ASSESSMENT ROLL; APPROVING A SUPPLEMENTAL ASSESSMENT ROLL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council of the Town of Davie, Florida has enacted Ordinance No. 96-33, as it may be amended, ("the Ordinance"), which authorizes the imposition of Fire Rescue Assessments for fire rescue services, facilities, and programs against Assessed Property located within the Town;

**WHEREAS**, the imposition of a Fire Rescue Assessment for fire rescue services, facilities, and programs each Fiscal Year is an equitable and efficient method of allocating and apportioning Fire Rescue Assessed Costs among parcels of Assessed Property;

**WHEREAS**, the Town Council initiated a fire rescue assessment program within the Town using the tax bill collection method for the Fiscal Year beginning on October 1, 2008;

**WHEREAS**, the Town Council on July 16, 2008, adopted Resolution No. R-2008-144, the Preliminary Rate Resolution, containing a brief and general description of the fire rescue facilities and services to be provided to Assessed Property, describing the method of apportioning the Fire Rescue Assessed Cost to compute the Fire Rescue

Assessment for fire rescue services, facilities, and programs against Assessed Property, estimating a rate of assessment, and directing preparation of the Assessment Roll and provision of the notice required by the Ordinance;

**WHEREAS**, the Town Council on September 15, 2008, adopted Resolution No. R-2008-213, the Annual Rate Resolution, which established a rate of assessment and imposed Fire Rescue Assessments against assessed property located within the Town for the Fiscal Year beginning October 1, 2008;

**WHEREAS**, Section 2.12 of the Ordinance provides that when it shall appear that a Fire Rescue Assessment should have been imposed under the Ordinance against a parcel of property specially benefited by the provision of fire rescue services, facilities, or programs, but that such property was omitted from the Assessment Roll, was erroneously assessed, or was not listed on the Tax Roll as an individual parcel of property as of the effective date of the Assessment Roll approved by the Annual Rate Resolution for any upcoming Fiscal Year, the Town Council may impose a Fire Rescue Assessment for the applicable Fiscal Year;

**WHEREAS**, Resolution No. R-2008-213 imposed a Fire Rescue Assessment against Educational Properties located within the Town, but said Educational Properties were omitted from the Assessment Roll for the Fiscal Year that began on October 1, 2008, due to concerns regarding the accuracy of the property data;

**WHEREAS**, the Town has since investigated those Educational Properties and calculated a revised Fire Rescue Assessment rate, which is provided in that certain report entitled "Town of Davie, Florida Higher Education Fire Services Special

Assessment Methodology Report," prepared by New Community Strategies on May 8, 2009, which is incorporated herein by reference;

**WHEREAS**, those parcels of Educational Property which were omitted from the Assessment Roll have been identified, included on a supplemental Assessment Roll and sent a bill in substantially the form attached as Appendix D hereto;

**WHEREAS**, notice of a public hearing has been published and mailed, as required by the terms of the Ordinance, which provides notice to all interested persons of an opportunity to be heard; an affidavit regarding the form of the notice mailed being attached hereto as Appendix B and the proof of publication being attached hereto as Appendix C; and

**WHEREAS**, a public hearing was held on July 29, 2009, and comments and objections of all interested persons have been heard and considered.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:**

**SECTION 1. AUTHORITY.** This resolution is adopted pursuant to Ordinance No. 96-33, as it may be amended, the Initial Assessment Resolution (Resolution No. R-96-254), the Final Assessment Resolution (Resolution No. R-96-285), Resolution No. R-2008-144, Resolution No. R-2008-213, Sections 166.021 and 166.041, Florida Statutes, the Town Charter of the Town of Davie; and other applicable provisions of law.

**SECTION 2. DEFINITIONS AND INTERPRETATION.** All capitalized terms in this resolution, not otherwise defined herein, shall have the meanings defined in the Ordinance, the Initial Assessment Resolution and the Final Assessment Resolution. In the case of conflicting definitions, the definitions provided herein shall prevail.

**"Code Descriptions"** mean the code descriptions listed in the Fixed Property Use Codes and the Fire Class Codes.

**"Educational Property"** means those Tax Parcels with a Code Description designated as "Higher Education ("Z")" in the Fire Class Codes specified in Appendix A.

**"Fire Class Codes"** means the property codes assigned by the Property Appraiser to Tax Parcels within the Town as specified in Appendix A attached hereto and incorporated herein by reference.

### **SECTION 3. FIRE RESCUE ASSESSMENTS.**

(A) Although the fee for certain parcels of Educational Property may be owned by a governmental entity, Educational Property that is also Government Property does not provide the same type of public benefit as other Government Property. Additionally, exempting Educational Property from the Fire Rescue Assessment could put privately-owned Educational Property at a competitive disadvantage. Accordingly, Educational Property that is owned by a governmental entity shall not be afforded an exemption from the Fire Rescue Assessment.

(B) The parcels of Assessed Property described in the supplemental Assessment Roll, which is hereby approved, are hereby found to be, or have been, specially benefited by the provision of the fire rescue services, facilities, and programs described in the Initial Assessment Resolution, in the amount of the Fire Rescue Assessment set forth in the supplemental Assessment Roll, a copy of which was present or available for inspection at the above referenced public hearing and is incorporated herein by reference. It is hereby ascertained, determined and declared



that each parcel of Assessed Property shown on the supplemental Assessment Roll is, or has been, benefited by the Town's provision of fire rescue services, facilities, and programs in an amount not less than the Fire Rescue Assessment for such parcel, computed in the manner set forth in the Ordinance and Annual Rate Resolution (Resolution No. R-2008-213) for the Fiscal Year that began on October 1, 2008.

(C) Adoption of this resolution constitutes a legislative determination that all such parcels assessed derive a special benefit, as set forth in the Ordinance, the Initial Assessment Resolution, the Final Assessment Resolution, Resolution No. R-2008-144 and Resolution No. R-2008-213, from the fire rescue services, facilities, or programs provided and a legislative determination that the Fire Rescue Assessments imposed hereunder are fairly and reasonably apportioned among the properties receiving such special benefit.

(D) As authorized in Section 2.12 of the Ordinance, Fire Rescue Assessments are levied and imposed for the Fiscal Year that began October 1, 2008 against all Educational Property which was omitted from the Assessment Roll based upon the rates of assessment attached as Appendix E and approved hereby.

(E) Fire Rescue Assessments shall constitute a lien upon the Assessed Property so assessed equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid.

(F) The supplemental Assessment Roll as herein approved, together with the correction of any errors or omissions as provided for in the Ordinance, shall be collected using the alternative method of collection described in Section 3.02 of the Ordinance for the Educational Property that is privately owned and using the alternative method of collection described in Section 3.03 of the Ordinance for Educational Property that is owned by a government entity.

(G) The supplemental Fire Rescue Assessment shall become due upon adoption of this resolution and, in accordance with Sections 3.02(C) and 3.03(C) of the Ordinance, shall become delinquent 30 days from such due date.

**SECTION 4. EFFECT OF ADOPTION OF RESOLUTION.** The adoption of this resolution shall be the final adjudication of the issues presented (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property, the method of apportionment and assessment, the rate of assessment, the Assessment Roll (and any supplement thereto) and the levy and lien of the Fire Rescue Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of this resolution.

**SECTION 5. SEVERABILITY.** If any clause, section or other part of this resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way affecting the validity of the other provisions of this resolution.

**SECTION 6. CONFLICTS.** This resolution or parts of resolutions in conflict herewith, be and the same are repealed to the extent of such conflict.

**SECTION 7. EFFECTIVE DATE.** This supplemental Fire Rescue Assessment resolution shall take effect immediately upon its passage and adoption.

**DULY ADOPTED** this 29<sup>th</sup> day of July, 2009.

**TOWN COUNCIL OF  
TOWN OF DAVIE, FLORIDA**

(SEAL)

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

**APPENDIX A**  
**FIRE CLASS CODES**

**APPENDIX A**  
**FIRE CLASS CODES**

Residential	("R")
Commercial	("C")
Warehouse/Industrial	("W")
Institutional	("I")
Vacant Land	("L")
Government	("X")
Miscellaneous	("Y")
Special	("S", and generally mixed use)
Common Assessed	("C")
Higher Education	("Z")

**APPENDIX B**  
**AFFIDAVIT OF MAILING**

### AFFIDAVIT OF MAILING

BEFORE ME, the undersigned authority, personally appeared Gary Shimun, who, after being duly sworn, deposes and says:

1. Gary Shimun, as Town Administrator of the Town of Davie, Florida ("Town"), pursuant to the authority and direction received from the Town Council, timely directed the preparation of the Supplemental Assessment Roll and the preparation, mailing, and publication of notices in accordance with the Fire Rescue Assessment Ordinance adopted by the Town Council on August 7, 1996 (the "Assessment Ordinance").

2. Gary Shimun has caused the notices required by the Assessment Ordinance to be prepared in conformance with the Ordinance and Resolution No.s R-2008-144 and R-2008-213. An exemplary form of such notice is attached hereto. Mr. Shimun has caused such individual notices for each affected property owner to be prepared and each notice included the following information: the purpose of the assessment; the total amount proposed to be levied against each parcel; the unit of measurement to be applied against each parcel to determine the assessment; the number of such units contained within each parcel; the total revenue the Town expects to collect by the assessment; a statement that failure to pay the assessment will cause a tax certificate to be issued against the property which may result in a loss of title; a statement that all affected property owners have a right to appear at the hearing and to file written objections with the local governing board within 20 days of the notice; and the date, time, and place of the hearing.

3. On or before July 8, 2009, USPS delivered and directed the mailing of the above-referenced notices by First Class Mail to each affected owner, at the addresses then shown on the real property assessment tax roll database maintained by the Broward County Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

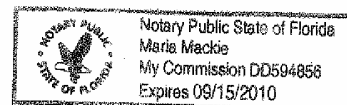
FURTHER AFFIANT SAYETH NOT.

Gary Shimun  
Gary Shimun, affiant

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing Affidavit of Mailing was sworn to and subscribed before me this 15 day of July, 2009 by Gary Shimun as Town Administrator of the Town of Davie, Florida. He is personally known to me or has produced \_\_\_\_\_ as identification and did take an oath.

Maria Mackie  
Printed Name: MARIA MACKIE  
Notary Public, State of Florida  
At Large  
My Commission Expires: 9-15-2010  
Commission No.: DD594856





**APPENDIX C**  
**PROOF OF PUBLICATION**

Published Daily

Fort Lauderdale, Broward County, Florida  
Boca Raton, Palm Beach County, Florida  
Miami, Miami-Dade County, Florida

STATE OF FLORIDA

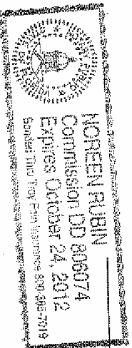
COUNTY OF BROWARD/PALM BEACH/MIAMI-DADE

Before the undersigned authority personally appeared Lana L. Reed who on oath says that he/she is a duly authorized representative of the Classified Department of the Sun-Sentinel, daily newspaper published in Broward/Palm Beach/Miami-Dade County, Florida, that the attached copy of advertisement, being, a NOTICE OF HEARING in the matter of TOWN OF DAVIE - IMPOSE AND PROVIDE FOR COLLECTION OF FIRE RESCUE SPECIAL ASSESSMENTS appeared in the paper on July 8, 2009 AD ID 1941158 Affiant further says that the said Sun-Sentinel is a newspaper published in said Broward/Palm Beach/ Miami-Dade County, Florida, and that the said newspaper has heretofore been continuously published in said Broward/Palm Beach/Miami-Dade County, Florida, each day, and has entered as second class matter at the post office in Fort Lauderdale, in said Broward County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant says that he/she has neither paid, nor promised, any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

Lana L. Reed, Affiant

*Lana L. Reed*

Sworn to and subscribed before me on 8 July, 2009, A.D.



(Signature of Notary Public)

(Name of Notary typed, printed or stamped)

Personally Known X or Produced Identification \_\_\_\_\_



NOTICE OF HEARING TO IMPOSE AND PROVIDE FOR COLLECTION OF FIRE RESCUE SPECIAL ASSESSMENTS

Notice is hereby given that the Town Council of the Town of Davie will conduct a public hearing to consider imposing fire rescue special assessments for the provision of fire rescue services within the Town of Davie for the Fiscal Year that began October 1, 2009, against certain Higher Educational properties that were omitted from the fire rescue special assessment roll.

The hearing will be held at 7:00 p.m. on July 29, 2009, in the Town Council Chambers of Town Hall, 6591 Orange Drive, Davie, Florida, for the purpose of receiving public comment on the proposed assessments. At the hearing, property owners have a right to appeal at the hearing and to file written objections with the Town Council within 20 days of this notice. If a person decides to appeal, any decision made by the Town Council with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or interpreter to participate in this proceeding should contact the Town Clerk at (954) 797-1020 at least two (2) business days prior to the date of the hearing.

The assessment for each parcel of property are based upon each parcel's classification and the total number of billing units attributed to that parcel. The following table reflects the fire rescue assessment schedule.

Fire Class Category	Assessment Rate	Billing Unit
Residential Property	\$100.00	Per Dwelling Unit
Commercial Property	\$0.1739	Per Square Foot
Industrial/Warehouse Property	\$0.0205	Per Square Foot
Institutional Property	\$0.0248	Per Square Foot
Educational Property	\$0.1071	Per Square Foot

Copies of the Fire Rescue Assessment Ordinance (Ordinance No. 96-53), as it may be amended, the Initial Assessment Resolution (Resolution No. R-96-254), the Final Assessment Resolution (Resolution No. R-96-285), as supplemented and modified by Resolution No. R-97-19, the Preliminary Rate Resolution initiating the annual process of updating the Assessment Roll and ratifying the Fire Rescue Assessments for the Fiscal Year that began October 1, 2008, the Annual Rate Resolution for the Fiscal Year that began October 1, 2008, and the supplemental Assessment Roll are available for inspection at the Town Clerk's Office of Town Hall, located at 6591 Orange Drive, Davie, Florida.

The assessments will be collected by a separate bill to be sent to affected property owners by the Town. Failure to pay the assessments may cause the assessment to be placed on your November 2009 property tax bill, or may cause the institution of foreclosure and/or mandamus proceedings, or a tax sale certificate to be issued against the property, either of which may result in a loss of title.

If you have any questions, please contact the Budget & Finance Department at (954) 797-1050.

TOWN COUNCIL OF DAVIE, FLORIDA

**APPENDIX D**  
**FORM OF FIRE RESCUE ASSESSMENT BILL**  
**AND NOTICE**

Town of Davie  
6591 Orange Drive  
Davie, Florida 33314-3399

TOWN OF DAVIE, FLORIDA  
NOTICE OF HEARING TO IMPOSE AND PROVIDE FOR  
COLLECTION OF FIRE RESCUE NON-AD VALOREM  
ASSESSMENTS  
NOTICE DATE: JULY 8, 2009

Owner Name  
Address  
City, State Zip

Tax Parcel #: \_\_\_\_\_  
Legal Description: \_\_\_\_\_  
Sequence #: \_\_\_\_\_

**\*\*\*THIS IS A BILL\*\*\***

The Town of Davie has imposed an annual assessment for fire rescue services for the fiscal year October 1, 2008 - September 30, 2009. The purpose of this assessment is to fund fire rescue services benefiting property located within the incorporated area of the Town. The annual fire rescue assessment is based on the classification of each parcel of property and number of billing units contained therein. Your property was omitted from the assessment roll certified for the Fiscal Year October 1, 2008 - September 30, 2009, and therefore is now subject to an assessment for the current fiscal year.

The above parcel is classified as EDUCATIONAL.

The total number of billing units on the above parcel is \_\_\_\_\_ square feet.

The annual Fire Rescue Assessment for the above parcel is \$\_\_\_\_\_.

The maximum annual assessment rate for the above parcel in future years will be \$\_\_\_\_\_.

The Fiscal Year 2008-09 fire rescue assessment is due and payable on or before August 30, 2009.

The total annual fire rescue assessment revenue to be collected within the Town of Davie is estimated to be \$\_\_\_\_\_ for the fiscal year that began October 1, 2008.

**(CONTINUED ON REVERSE)**

Please remit the below portion with your payment. Payment in person may be made at the Town of Davie, 6591 Orange Drive, Davie, Florida 33314-3399.

Remit to: Town of Davie  
6591 Orange Drive  
Davie, Florida 33314-3399

Tax Parcel ID#: \_\_\_\_\_  
Sequence #: \_\_\_\_\_

Payment Amount: \_\_\_\_\_

Payment in person may be made at the Town of Davie, 6591 Orange Drive, Davie, Florida 33314-3399. A public hearing will be held at 7:00 p.m. on July 29, 2009, in the Town Council Chambers of Town Hall, 6591 Orange Drive, Davie, Florida, for the purpose of receiving public comment on the assessments. You and all other affected property owners have a right to appear at the hearing and to file written objections with the Town Council within 20 days of this notice. If you decide to appeal any decision made by the Town with respect to any matter considered at the hearing, you will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the Town Clerk at (954) 797-1020 at least two business days prior to the date of the hearing.

Unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of Town Council action at the above hearing (including the method of apportionment, the rate of assessment and the imposition of assessments), such action shall be the final adjudication of the issues presented.

Copies of the Fire Rescue Assessment Ordinance, the appropriate resolutions and the supplemental assessment roll are available for inspection at the Town Clerk's Office of Town Hall, located at 6591 Orange Drive, Davie, Florida.

Failure to pay the assessment may cause the assessment to be placed on your November 2009 property tax bill, or may cause the institution of foreclosure and/or mandamus proceedings or a tax sale certificate to be issued against the property, either of which may result in a loss of title.

If there is a mistake on this bill, it will be corrected. If you have any questions, please contact the Town's Budget & Finance Department at (954) 797-1050.

**APPENDIX E**  
**ASSESSMENT RATES**

**APPENDIX E**  
**ASSESSMENT RATES**

<b>Fire Class Category</b>	<b>Fire Rescue Assessment Rate</b>	<b>Billing Unit</b>
Residential Property	\$104.00	Per Dwelling Unit
Commercial Property	\$0.1739	Per Square Foot
Warehouse/Industrial Property	\$0.0205	Per Square Foot
Institutional Property	\$0.0348	Per Square Foot
Educational Property	\$0.1011	Per Square Foot